



Paper No. 9

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OFFICE OF PETITIONS

In re Application of
Sash
Application No. 09/864,599
Filed: May 24, 2001
Attorney Docket No. N/A
For: INFORMATION DELIVERY
SYSTEM

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 26, 2002, to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to The Notice to File Correct Application Papers, mailed July 24, 2001, which required petitioner to file substitute drawings in compliance with 37 CFR 1.84 by September 24, 2001. This period was extendable under 37 CFR 1.136(a). The Office has no record of receiving substitute drawings for Figures 1-4. Accordingly, the above-identified application became abandoned on September 25, 2001. A Notice of Abandonment was mailed on July 5, 2002.

Petitioner asserts that he mailed substitute drawings of Figures 1-4 to the Office on September 12, 2001. As stated above, the substitute drawings of Figures 1-4 are not of record in the file and cannot be located.

Petitioner has provided a copy of the items that were allegedly mailed on September 12, 2001. The cover letter itemizes (1) a Notice to File Missing Parts for the above-identified application; (2) formal corrected patent drawings; (3) a check in the amount of \$130.00 to cover the requisite fee; and (4) a stamped, self-addressed postcard were included.

However, the certificate of mailing is not on the same page as the cover letter. The certificate of mailing is on a separate sheet of paper and states, "I hereby certify that on September 12, 2001, I caused A Notice To File Missing Parts for U.S. Patent Application Serial No. 09/864,599 to be mailed by first class mail to the Commissioner of Patents and Trademarks, Washington, D.C. 20231."

Under 37 CFR § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The September 12, 2001 certificate of mailing states that *A Notice to File Missing Parts* was mailed. The certification is that the Notice was mailed to the Office. MPEP 512 states that where

there is doubt concerning the connection between the separate sheet containing the certification and the papers filed, the certification will not be considered acceptable.

The petition is **DISMISSED**.

The petition to enter drawing Figures 5-9 will not be addressed until the application is in active status.

Petitioner is encouraged to submit a petition under 37 CFR 1.137(b) to revive the application. A blank copy of the necessary form is enclosed for petitioner's convenience.

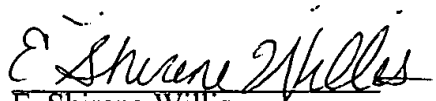
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

enclosures: Privacy Act Statement

Blank form: Petition for Revival of an Application for Patent Abandoned
Unintentionally Under 37 CFR 1.137(b)